the act of 1892 conferring upon women the right to vote for school commissioners, was unconstitutional. Under substantially the same provision in the Ohio Constitution, the Supreme Court of that State, in *The State* v. *Constantine*, 42 Ohio St. 437, held that a statute providing for the election of four police commissioners and permitting each elector to vote for but two, was unconstitutional. Judge Dillon comes to the conclusion that an act providing for minority representation, in which the right of all electors to vote for every elective officer should be provided for, and which should give effect to the voice of the majority, would not violate the Constitution. This apparently points to some system of cumulative voting as the proper one to be adopted in order to avoid constitutional objections. Experiments in that direction, as Judge Dillon says, have occasionally been made. In England an act passed in 1870 provided that in the election of school boards "every voter shall be entitled to a number of votes equal to the number of members of the school board to be elected, and may give all such votes to one candidate, or distribute them among the candidates, as he sees fit." The similar provisions of the Illinois Constitution relative to the election of members of the House of Representatives, is one of the rare instances of the adoption in this country of a scheme of minority representation.

LIABILITY FOR RENT AFTER DESTRUCTION OF PREMISES. — Well known principles of the law of real property are extended to decidedly novel circumstances in the interesting recent case of *Waite* v. *O'Neil*, 76 Fed. Rep. 408. The plaintiff owned land bordering on the Mississippi River, at a place where a narrow strip of low land lay along the shore at the foot of a high bluff. She leased to the defendants "the river front and landing in front of the lot, with ample space for a roadway along the landing." By a sudden and extraordinary change in the course of the river, the strip of low land and a part of the bluff were swept away; so that the river now flows at the foot of a bank over sixty feet high, so undermined that no vessels could safely approach it, and quite incapable of being made into a safe landing place. More than this, a system of works has been erected in the river along this shore by persons acting with the authority of the lessor, to repair the damage done by the stream, which would entirely prevent any access to the bank. The lessor now insists, among other demands, on the payment of the stipulated rent. In considering this demand, the first question to be decided is as to the nature of the property leased. The court considers, having regard to the whole language of the lease and all the circumstances, that no portion of the land was leased, but only an incorporeal right appurtenant to the land, to have a "landing" on the river front, with a right of way to it. According to the well established though severe rule of law that no impairment of the value of property will release the lessee from his liability to pay the stipulated rent, the lessees in this case must pay full rent for the right leased to them, however little it is now worth; unless, indeed, they can show that this right, the subject matter of the lease, has been totally destroyed. In the latter case the liability for rent is necessarily extinguished, as is shown by the cases of a lease of a room in a building afterwards burnt down. *Graves* v. *Berdan*, 26 N. Y. 498.

Strictly speaking, if the lessees acquired all the lessor's rights as a riparian owner, such rights would appear to be still in existence, though

now worthless, and they are bound to pay full rent for them. The court hold, however, that the subject matter of the lease was in reality only a "landing," and now that no landing can fairly be said to exist, this subject matter is wholly gone. This view will probably commend itself to all as highly sensible, though a point is left open to speculation as to the right the lessees would have had to use a practicable landing at a new place, supposing the course of the flood had left such a landing. Even if a landing could still be considered as existing after the catastrophe, the court further hold that the acts done by the lessor, or by her authority, give the lessees good cause to consider themselves evicted from the property leased, and therefore released from the liability for rent. This is an extension of the application of the term "eviction" to a case where the lessee is deprived of the enjoyment, not of land leased, but of an incorporeal right leased. Just such a case has perhaps never before arisen, on account of the rarity of leases of incorporeal rights; but there seems to be no reason why the lessor's conduct here should not be described and treated as an eviction.

ADVERSE POSSESSION BY A RELATIVE. — As a practical matter, more is required to warrant finding possession adverse when the possessor and owner are relatives than when they are mere strangers. But the statement of the Supreme Court of Minnesota in *O'Boyle* v. *McHugh*, 69 N. W. Rep. 37, 38, that the relation of parent and child "radically modifies the general rules of law as to what constitutes adverse possession between strangers," is unfounded in reason, and is not supported by the authorities. The only legitimate effect of the relationship is to give rise to an inference that the possession was permissive. To say that there is a presumption of this is not so objectionable, though it adds little, since the particular facts of the actual relationship must determine the force of the inference in each case. Frequently, the mere fact of family connection must be entirely disregarded because of the actual relations between the parties. There is the further difficulty that no indication is given as to the degree of relationship necessary to bring the case within the rule laid down. It seems as though the court considers that there is an analogy to adverse possession by a tenant in common, or by a person lawfully in possession who secretly determines to hold as owner.

This question is well dealt with in *Allen* v. *Allen*, 58 Wis. 202, 210, where it is said that the relationship is "another *fact* in the case which makes strongly against the claim" of an adverse and hostile possession. "In such case mere possession . . . would not have *the same force in proving* an adverse entry and holding as it would in the case of mere strangers." And so in *Silva v. Wimpenney*, 136 Mass. 253, a case where the trial court ruled that title by adverse possession had not been gained, on appeal Mr. Justice Holmes took up the facts of the case and weighed them in the light of the relationship.

MAY A SURGEON DISREGARD THE INSTRUCTIONS OF HIS PATIENT? — Interesting questions as to the extent of a surgeon's authority to follow his best judgment in the course of an operation are suggested by the recent English case of *Beatty* v. *Cullingworth*. (Queen's Bench Division,